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EXAMINER	
MISLEH, JUSTIN P	

ART UNIT	PAPER NUMBER
2622	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	**Application No.** 10/681,591	**Applicant(s)** GAYLORD, JEREMY B.
	Examiner JUSTIN P. MISLEH	**Art Unit** 2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 June 2008*.
2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *8-22* is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *8-22* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on *07 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a)☐ All b)☐ Some * c)☐ None of:
1.☐ Certified copies of the priority documents have been received.
2.☐ Certified copies of the priority documents have been received in Application No. _____.
3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to Claims 8, 11, 13, and 18 have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. **Claims 13 – 17** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

4. These claims are directed to a computer readable storage medium. The specification describes the computer readable medium as possibly including "a carrier wave" and "transmission over the internet" (see page 19, lines 12 – 14). It has been well established, under 35 U.S.C. 101, that these are not statutory types of computer readable media and cannot be claimed.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. **Claims 8 – 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rambaldi et al. (US 6,618,084 B1) in view of Mori et al. (US 5,168,379) in further view of Dalton et al. (US 5,493,332).

7. For **Claims 18, 13, 11, and 8**, the Examiner respectfully notes Claim 18 is substantively identical to Claims 13, 8, and 11. More specifically, Claim 18 is directed towards a digital processing system having a processor operable to perform a series of steps, Claim 8 is actually directed towards just the series of steps, Claim 13 is directed towards the computer readable medium that essentially stores the program for making the system in Claim 18 operable, and Claim 11 is directed towards the apparatus containing the digital processing system.

In the case of Rambaldi et al., the system shown in figure 1 is a digital processing system (as evidenced by the ADC 18). The computer (fault analysis and correction 24) operates on digital data and the memory (26) stores digital data and the digital data is output to a display (via output line 30). While there is no specific the discussion in Rambaldi et al. regarding a computer readable medium and the program stored thereon, the Examiner submits that the digital processing system in Rambaldi et al. must have a computer readable medium and that the computer readable medium must store a program that causes the digital processing system to perform the series of steps identified below. Furthermore, Rambaldi et al. discusses how the digital processing system may be incorporated into a typical a digital camera system that includes optics and other components (see column 12, lines 1 – 22).

Therefore, Rambaldi et al. disclose, as shown in figures 1 and 4A – 4C, a digital processing system (see figure 1) having a processor (24) operable to perform a method comprising:

processing data from an image capturing device (area sensor 12; see flowcharts of figures 4A – 4C);

extracting an identifier from said data (Rambaldi et al. generate a defective pixel map, which is stored in memory 26, for processing subsequent image data output from the ADC 18; see steps 516 and 536);

assembling an image from said data (see step 562);

and storing said identifier and said image (The defective pixel map is constantly updated and restored in memory 26 and the image data may also be stored in memory; see column 4, lines 60 – 67; column 5, lines 22 – 27; and column 12, lines 1 – 22).

The system in Rambaldi et al. is directed towards identifying and correcting defective pixels in an imaging system; however, Rambaldi et al. do not identify any particular use for the defective pixels. Therefore, Rambaldi et al. do not disclose where the defective pixels were intentionally made defective.

On the other hand, Mori et al. also disclose an imaging system. The imaging system in Mori et al. also include an image sensor that outputs defective pixels to a processing system (see figure 1). However, the defective pixels in Mori et al. are intentionally made defective and are used to identify a location to insert a date and time into the final image (see figure 4). Mori et al. teach that the image sensor can be either a CCD or CMOS image sensor (see figures 3 and 5). Furthermore, once the address of the specific marks or addresses are identified and stored, Mori et al. correct the intentionally destroyed pixels (see column 5, lines 17 – 31 and column 7, lines 25 – 30). Therefore, Mori et al. disclose where the defective pixels were intentionally made defective.

Hence, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included where the defective pixels were intentionally made defective and identifying those intentionally defective pixels (as taught by Mori et al.) in the digital processing system (disclosed by Rambaldi et al.) for the advantage providing *a specific mark or address for inserting items into the image that are to be displayed with the image while not having significant negative consequences for the final image* (see Mori et al., column 1, lines 39 – 42).

While Rambaldi et al. in view of Mori et al. show that it would have been obvious to provide a system that processes image data to extract an encoded identifier from the image data wherein the coded identifier is formed from intentionally destroying pixels in the image sensor; Rambaldi et al. in view of Mori et al. do not show that the identifier represents identification data for use identifying a specific image capturing device from which the image has been captured.

However, Dalton et al. also provides an image capturing and processing system. Dalton et al. feature a camera head (11) that incorporates a CCD (see figure 1), wherein the camera head (11) includes a memory (28) for storing identification data for a plurality of CCD's that can be inserted into the camera head (see figure 2 and column 5, lines 44-50). The identification data is used by CEU (12) to operate the image capturing and processing system using a specific CCD. Therefore, Dalton et al. at least teach, incorporating together with an image capturing device, identification information that identifies a particular CCD that is to be used in a capturing system.

Based on this teaching, the Examiner believes that at the time the invention was made it would have been obvious to one with ordinary skill in the art to have incorporated the teaching of Dalton et al. together with the combined teaching of Rambaldi et al. in view of Mori et al. to form a system that processes image data to extract an encoded identifier from the image data wherein the coded identifier is formed from intentionally destroying pixels in the image sensor; wherein the identifier represents identification data for use identifying a specific image capturing device from which the image has been captured. Dalton et al. clearly state that providing an identification system for the image capturing device allows defective image capturing devices to replaced without having to send the whole system back to a manufacturer (see column 1, lines 22-30).

8. As for **Claims 19 and 14**, Rambaldi et al. further disclose, as shown in figures 1 and 4A – 4C, wherein said step of extracting an identifier further comprises:

reading values of a known subset of pixels from said data (The known subset of pixels are the pixels of the area sensor 12; the fact the system is even processing these pixels means the system is aware that these pixels exist. Therefore, they are a known subset.); and

assembling said values into an identifier (in steps 512 – 516, the defective pixels are organized and stored in the memory 26).

9. As for **Claims 20 and 15**, Rambaldi et al. further disclose, as shown in figure 4C, interpolating a new pixel value for each pixel storing a piece of said identifier; and replacing original pixel value for each of said pixels with a new pixel value.

10. As for **Claims 12, 21, and 16**, Rambaldi et al. further disclose, as stated in column 12, lines 1 – 22), wherein said step of storing said identifier and said image comprises placing said identifier and said image into a image frame and saving said image frame.

11. As for **Claims 9, 10, 22, and 17**, Rambaldi et al. further disclose, as stated in column 12, lines 1 – 22), wherein said image capturing device is a digital camera and/or video camera.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Sinh Tran can be reached on 571.272.7564. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Justin P. Misleh/
Primary Examiner
Group Art Unit 2622
October 31, 2008